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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION NO. 88 of 1992

Cuttack, this the 29th, day of April, 1997

Sri Benudhar Sahu

....

Applicant

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? *Yes*.
- 2) Whether it be circulated to all the Benches of the *CA* Central Administrative Tribunal or not?

S. Somnath Sahu
(S. SOM)
VICE-CHAIRMAN *29.4.97*

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 CENTRAL ADMINISTRATIVE TRIBUNAL,
 CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 88 OF 1992
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CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

Sri Benudhar Sahu,
 aged about 30 years,
 s/o Niladri Sahu,
 Vill/P.O-Baghelo Bamanpur,
 Via-Chandol, District-Cuttack

....

Applicant

-versus-

1. Union of India, represented through
 Secretary, Ministry of Communication,
 New Delhi.
2. Post-Master General,
 At/P.O: Bhubaneswar,
 Dist.Puri.
3. Superintendent of Post Offices,
 Cuttack North Division,
 At/P.O/Dist.Cuttack.
4. Sub-Divisional Inspector,
 Postal and Telegraph Department,
 At/PO: Salepur, Dist.Cuttack.
5. Department of Posts,
 Office of the Postmaster Kendrapara
 (Head Office),
 At/PO: Kendrapara, Dist.Cuttack

Respondents

Advocates for applicant -

M/s S.D.Das, B.N.Udgata,
 T.K.Deo & S.K.Samantray

Advocate for respondents -

Mr.Ashok Misra.

*Somnath Sahu
 29.4.97*

O R D E R

S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to regularise his services in the post of Extra-Departmental Delivery Agent (EDDA, for short) in Bhagilobamanpur Post Office, taking into account his experience in the post from the year 1986 till date.

2. The facts of this case are that vide order dated 7.2.1986 (Annexure 1) the applicant was engaged on daily wage basis to take charge of the post of E.D.D.A., Bhagilobamanpur P.O., on 5.2.1986 forenoon. The applicant has enclosed at Annexure-3 copy of a certificate (without date) from Post Master, Kendrapara H.O., stating that the applicant had been working in various capacities on daily wage basis against leave vacancies since 1986. At Annexure-4 is another certificate dated 21.6.1988 indicating that the applicant had worked from 15.6.1988 to 27.6.1988 in the leave vacancy of one Mahendra Kumar Satpathy, Extra-Departmental Mail Carrier, Kendrapara. From Annexures-4 series, which are copies of similar certificates issued by the Post Master, Kendrapara H.O., it appears that the applicant has been working on daily wage basis for short periods. The last order is dated 8.1.1992 in which in the leave vacancy of Arati Singh, Extra-Departmental Stamp Vendor, the applicant had worked from 6.1.1992 to 8.1.1992. Some of these orders in Annexures-4 series state specifically that the applicant working as a substitute will have no claim to be absorbed in the post in Department or in the cadre. He had apparently filed a representation to the Post Master General for getting absorbed and in order dated 15.1.1992 (Annexure-5) it was intimated

Jonnath S. S. 29.4.97

that his representation has been considered and rejected by the Chief Post Master General. Thus on the basis of his intermittent work on daily wage basis as substitute in different posts, the applicant has made the present prayer for his regularisation.

3. The respondents in their counter have admitted that initially the applicant was engaged on daily wage basis Post Office as a substitute in Bhagilobamanpur/from 5.2.1986 and thereafter he has continued in short spells as a substitute on daily wage basis in the years 1988, 1989, 1990 and 1991. The respondents have asserted that in the orders issued to the applicant it was made clear that he cannot claim regular absorption in the Department. It is also asserted by the respondents that according to the departmental instructions contained in the letter No.17-141/88-EDC & Trg., dated 6.6.1988, of the Ministry of Communications, Department of Posts, Group 'D' posts of the Department are to be filled up by various segments of eligible employees in order of preference amongst them and the part-time casual labourers come under the lowest category and as such the applicant has a very slender chance of getting directly absorbed as a Group 'D' employee. As regards his absorption as Extra-Departmental Delivery Agent, it is submitted by the respondents that according to the Director General, Posts, circular letter dated 6.6.1988 (Annexure R/1) full-time and casual workers can be given preference for recruitment as Extra-Departmental Agents provided they fulfil all the minimum criteria and have put in one year of service. It is further clarified in the circular that for this purpose, service of 240 days in a year can be reckoned as one year service. On the contested the above grounds, the respondents have/claim of the applicant for

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regular absorption in Group 'D' post, which he has not asked for in his application, but also his prayer for regular appointment as an E.D.D.A.

4. I have heard the learned counsels for both sides and carefully considered the matter. It is clear that the applicant being a part-time casual worker has a very little chance of getting absorbed in a Group 'D' post for which he comes under the lowest order of preference. In view of this, it is not possible for me to issue a direction to the respondents to appoint him to a Group 'D' post. As regards his prayer for appointment as a regular E.D.D.A., the relevant portion of the circular dated 6.6.1988 of the Ministry of Communications, Department of Posts (Annexure R/1) is quoted below:

"4. The suggestion has been examined in detail and it has been decided that casual labours whether full time or part-time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED posts provided they fulfil all the conditions and have put in a minimum service of 1 year. For this purpose a service of 240 days in a year may be reckoned as one year service...."

*Committtee
29.4.97*

The respondents have admitted in paragraph 3(a) of the counter that the applicant worked on daily wage basis in Bhagilobanpur Branch Office from 5.2.1986 till 31.12.1986. Thus in the calendar year 1986 he has worked for more than 240 days. Even if the year is taken as the financial year, i.e., 1986-87, starting from 1.4.1986, in that year he has worked for more than 240 days, as admitted by the respondents. Therefore, his case comes squarely within the circular dated 6.6.1988, the relevant portion of which has been extracted above. It is no doubt true that on 1.1.1987

he was disengaged and thereafter he has worked only for short spells as a substitute on daily wage basis in all the succeeding years upto 1991. It has been submitted by the learned lawyer for the applicant that even now he is occasionally engaged as a substitute on daily wage basis. But according to the circular of 6.6.1988 he had qualified for being appointed as E.D.D.A. subject to his having the minimum educational qualification by 31.12.1986. The circular no doubt is dated 6.6.1988 and the applicant had completed more than 240 days of part-time casual work prior to coming into force of the circular, but even then he will come within the benefit of the circular. A careful reading of the circular makes it clear that the Department intends to give the benefit of Extra-Departmental appointment to those casual workers, full-time or part-time, who have worked for 240 days in a year by the time the circular was issued. Therefore, the applicant having completed more than 240 days of casual work from 5.2.1986 to 31.12.1986 qualifies for being considered for appointment as E.D.D.A.

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5. In consideration of the above, it is ordered that the respondents should consider the case of the applicant in the E.D.D.A. vacancies which may arise in future, taking into consideration more than 240 days of service rendered by him as indicated earlier. While considering his candidature, age relaxation, if any, should be given to him strictly to the extent of service rendered by him in the Department. The applicant, however, must qualify under the relevant Rules in

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all respects, like having the minimum educational qualification, etc.. With this observation, the Original Application is allowed in part. No costs.

John Math Sury
(S.SQM)
VICE-CHAIRMAN
29.4.97

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